IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION.

WRIT PETITION NO. 7586 OF 2004

1. Ms. Dipti D. Shinde)
2. Ms. Snehal V. Chougule)
3. Ms. Ashwini S. Pawar,)
4. Ashesh A. Patil ....)... Petitioners.

versus

1. Rajashree Chhatra[ati Shahu)
Maharasj Govt. Medical College),
Kolhapur.)
)
2. The Director of Medical)
Education and Research, Bombay)
)
3. State of Maharashtra. .).... Respondents.

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Shri A.Y.Sakhare Sr. counsel with L.M.Acharya for the petitioners.

Shri A.A. Kumbhakoni Special Counsel with Shri S.R. Nargolkar AGP for the State.

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CORAM ; V.G.PALSHIKAR &
SMT. NISHITA MHATRE, JJ.

DATED; 16TH FEBRUARY 2005.

P.C.;

1. By the present petition, the petitioners seek a mandamus or a direction requiring the respondent college to reduce the fees and refund the same on the ground that the collection of that fees amounts to profiteering.

2. This petition is a classic example of utterly dishonest litigation at the instance of a person who with open eyes accepted the offer of availing open NRI quota by payment of fees payable by NRI candidates. Whether it was profitaring or not was known to the candidates at the time when the offer was accepted. The submission is that though they have accepted the fee structure etc. it was for a particular academic year and as that year is over the principles of estoppel will not apply. The admission was not given for one academic year, it was given for one course running into four and half years. The genesis of granting NRI quota or management quota for professional education was to permit the raising of adequate finance for professional institutions and colleges to meet the expenses they are required to incur for imparting that professional education. Therefore 85% students who were really meritorious were permitted to take professional education, the cost of which was being saddled on those rich who though lacking in merit were keen on getting their wards education of the kind given by the institutions and the money paid by them therefore formed source of income for the college to give proper education to 85% meritorious students. That being the situation the acceptance by the petitioners of NRI quota seat is recognised by them and the fact that the fees received by the institution for

NRI quota are being utilised for the purpose of 85%

students who are admitted only on merits.

3. Apart from that there was nothing prejudicial for these petitioners to accept the NRI quota with the conditions mentioned therein. There could have been several others who could have accepted the quota. If nobody had acepted the quota with the conditions like the one accepted by the petitioners, those seats would have been given to the persons who are having merit who were not crossing the benchmark fixed for that academic year. In our opinion, it would be improper to exercise our extra ordinary jurisdiction under Article 226 of the Constitution to come to the rescue of such persons who on the basis of the weight of their money bags secure admissions in the institutions for medical education and then turn around and rush to this court under Article 226 of the Constitution to save their bags. We see no reason to postpone the hearing of these petitions because, the Supreme Court in a Constitutional Bench is reconsidering or re-interpreting the law on this point in a judgment delivered in **TMA Pai's** case whatever is laid down by the Supreme Court or by this court, it can be no assistance of the persons like the petitioners. We therefore see no reason to postpone the hearing on any count whatseover. We see no merit in this petition.

It is therefore dismissed with cost which are quantified to Rs. 1500/-.

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